IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPEAL NO. 771 OF 2005

Ashok Kundanmal Kothari ...Appellant

Versus

The State of Maharashtra ...Respondent

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Mr. R.U. Singh, Advocate for Appellant

Mr. B.H.Mehta, A.P.P. for State.

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CORAM: SMT. V.K. TAHILRAMANI, J.
DATED: 26TH OCTOBER, 2005

P. C.:-

1. Heard the learned advocate for the appellant and the learned A.P.P. for State.

2. Smt. Lalita Kothari (P.W.2) who is the wife of the present appellant, has filed complaint under Section 395, 452, 341, 397 of I.P.C. and under Section 25 and 27 of Arms Act.

3. The appellant i.e. the husband of complainant Smt. Lalita Kothari, used to run jewellery shop in the name of Laxmi Jewellers at Malad. Smt. Lalita Kothari has filed a complaint on 1.4.1998 stating therein that some unknown persons entered into their house and committed robbery at the point of deadly weapons. It is the case of the appellant that the ornaments and other articles which were robbed,

mostly belongs to his customers. Some accused persons came to be arrested and some property came to be recovered at their instance. The said accused persons came to be acquitted. During the pendency of trial, the appellant had preferred an application for return of property which came to be allowed by the learned Magistrate. The appellant preferred an application for return of property before the learned Sessions Judge. However, the learned Sessions Judge directed that the property be retained by the Court as some of the absconding accused are yet to be traced.

4. In the present case, the accused persons who have been acquitted, have given their no objection to return the property to the appellant. So also the prosecution has no objection to the property being returned to the appellant. Moreover, the complainant who is present in the court has no objection to the property being returned to the present appellant. In this view of the matter, the property be returned to the appellant on furnishing a bond of Rs.10.00 lakhs. In addition thereto the appellant shall given an undertaking to the trial Court that he will produce the property as and when required by the Court.

5. Appeal is disposed of.

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